

REMARKS**I. CONTINUED SPECIAL STATUS**

Since it has been some time since examination last occurred, a reminder is appropriate that this application continues to have special status. Accordingly, its examination has priority over examination of other, non-special applications, and the guideline of responding to an applicant's communication within 30 days of its forwarding to the examiner should be observed, instead of the normal 60 days.

II. INDEPENDENT CLAIMS 1, 18, 35, 51, 52, 62, 78, 94, 105, 115, 121, 137, 148, AND 158 – 103 REJECTION – SEC REFERENCE IN VIEW OF GUTTERMAN '031**A. Claimed Features Lacking – Message Sending Component.**

Each independent claim has been amended to explicitly define that the system notifies each contraparty of a match at the same time. Specifically, the following or something similar has been added to each independent claim (see, e.g., Claim 51):

“the system informs each contraparty of the match at the same time, and no contraparty is informed of the match before another contraparty”.

This added language defines even further a key difference between the inventive system and the LimiTrader system. LimiTrader does not send a match notification message to each contraparty. Instead, LimiTrader sends a message only to the party with an existing order that is contra to a just-submitted order:

“LimiTrader will dial-up the participant that entered the existing orders.”
(see SEC reference, page 3 at *8).

LimiTrader does not notify the party with the just-submitted order, but rather relies on the existing-order party to respond to the notification message and contact the other party to begin the negotiation process:

“The first participant so notified that responds to the incoming order may begin an automated negotiation process.” (see SEC reference, page 3 at *8.)

Indeed, after notifying the existing-order party only, the LimiTrader system has nothing further to do with the parties unless a trade results:

“The Company is not involved in such negotiation and is not aware that a negotiation is occurring or has occurred unless a trade results.” (see SEC reference, page 3 at *8).

Moreover, it cannot be said that the existing-order party acts as a proxy for the system in notifying the party with the just-submitted order of a match, because the existing-order party only contacts the party with the just-submitted order if it wants to. With LimiTrader, the existing-order party decides whether to contact – not the system.

Indeed, the Examiner has admitted, in the Examiner’s Answer to Applicant’s Appeal Brief, that the SEC/LimiTrader reference sends its match message to only one contraparty, not each contraparty. The Examiner’s Answer states that:

“The examiner perceives the dialing up of the participant that entered the existing order as taught by SEC to constitute the message sending component disclosed by the applicant.” Answer at 19, lines 19-21, emphasis supplied.

However one feels about this perception with respect to the prior claims, it clearly does not apply to the amended claims. The amended claims define that applicant’s system/process sends the match message to each contraparty at the same time, not just one:

“the system informs each contraparty of the match at the same time, and no contraparty is informed of the match before another contraparty”.

In sum, neither the SEC reference nor Gutterman discloses this feature of the amended claims, and thus no combination of the SEC reference and Gutterman would disclose it.

B. Claimed Features Lacking – Data Security Component.

In addition, just to reiterate what was discussed in Amendment I, the LimiTrader system does not meet the data security component of the invention, now that ‘restricting access’ has been changed to ‘preventing knowledge’ in independent claims 52, 62, 105, 115, 148, and 158.

The claims now define a very detailed, specific data security component, whereas the SEC reference merely outlines a very general security objective:

“The company has in place security procedures reasonably designed to (i) prevent unauthorized access to LimiTrader, both by employees of the Company or the clearing broker, by participants in the system and by persons not affiliated with the Company, the clearing broker or the system, and (ii) to safeguard the system against threats to the proper functioning of the system..” SEC reference at page 9.

The SEC reference’s very general security objective cannot reasonably be construed to disclose or suggest that the LimiTrader system prevents knowledge of a party’s offer by the other side, as defined in the amended claims.

In fact, with LimiTrader the opposite is true – after an existing-order party obtains knowledge of an incoming-order party’s offer, the existing-order party can “stand pat” and not reveal his own offer to the incoming-order party. Said another way, after receiving the information that a match to his order exists, an existing-order party can opt not to respond and not negotiate (see SEC ref. page 3: “If the holder of an existing order does not wish to negotiate, no action is required.”). The existing-order party – and any other existing-order party notified by LimiTrader – thus gets valuable information that someone is selling what he’s buying, or vice-versa, without the contraparty ever knowing anything.

In sum, the “one-sided notification” that LimiTrader uses has significant negative implications for data security and confidentiality. With LimiTrader, existing-order parties get knowledge of a match whereas the party with the just-submitted order may not. Thus the LimiTrader system does not provide the total confidentiality that is a key objective of Applicant’s invention, and which prevents the market movement that occurs when one party knows and not the other.

III. DEPENDENT CLAIMS

Finally, because independent claims 1, 18, 35, 51, 52, 62, 78, 94, 105, 115, 121, 137, 148, and 158 define patentably over the prior art as discussed above, their respective dependent claims 2-17, 19-34, 36-50, 68-77, 53-61, 63-67, 79-93, 95-104, 106-114, 116-120, 122-136, 138-147, 149-157, and 159-163 also define patentably for the same reasons.

CONCLUSION

For all of the above reasons, Applicant requests reconsideration of the rejections contained in the Office Action. Applicant submits that the claims all define patentably over the prior art, and that this application is now in condition for allowance.

Respectfully,

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